

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ANTHONY JOSEPH GARCIA,)	8:13CV361
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
STATE OF NEBRASKA, et al.,)	
)	
Defendants.)	

This matter is before the court on its own motion. On December 4, 2013, Plaintiff filed his Complaint in this matter (filing no. [1](#)), along with a Motion for Leave to Proceed in Forma Pauperis (“IFP”) (filing no. [2](#)). On December 17, 2013, the court granted Plaintiff’s IFP Motion and assessed an initial partial filing fee pursuant to [28 U.S.C. § 1915\(b\)\(1\)](#). (Filing No. [9](#).) In doing so, the court warned Plaintiff that his case would be subject to dismissal if he failed to pay the initial partial filing fee by January 20, 2014. (*Id.*) Plaintiff thereafter filed four letters with the court. (Filing Nos. [10](#), [11](#), [12](#), and [13](#).) In these letters, Plaintiff indicates that he is in administrative confinement and attaches documents showing that “he is allowed to request law books and/or cases to be used in his room 3 times per week.” (*Id.*) Plaintiff’s letters show that he has the ability to send inmate request forms and that he can communicate with the court. (*Id.*)

Despite his demonstrated ability to communicate with this court and his institution, Plaintiff did not request an extension of time to pay his initial partial filing fee nor did he pay the fee by the court’s January 20, 2014, deadline. (*See* Docket Sheet.) Therefore, Plaintiff’s case is dismissed for failing to comply with the court’s December 17, 2013, Memorandum and Order. *See* [Fed. R. Civ. Pro. 41\(b\)](#); *see also* [Conley v. Holden](#), No. 03-3908, 2004 WL 2202452, at *1 (8th Cir. Sept. 21, 2004) (affirming district court’s dismissal of inmate’s case for failing to pay the assessed initial partial filing fee).

IT IS THEREFORE ORDERED that:

1. Plaintiff's Complaint (filing no. [1](#)) is dismissed without prejudice because Plaintiff failed to comply with this court's orders.

2. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 13th day of February, 2014.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge

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